



April 2, 2002

TSA Docket No. TSA-2002-11334  
Docket Clerk  
US DOT Dockets  
Room PL401  
400 Seventh Street, SW  
Washington, DC 20590-0001

Subject: Aviation Security Infrastructure Fees, 49 C.F.R. Part 1511

Dear Sir or Madam:

The Regional Airline Association (RAA), on behalf of its 54 member airlines, appreciates the opportunity to comment on the captioned Interim Rule. RAA represents the interests of short-haul scheduled airlines operating under FAR Parts 121 and 135. Our members transported 94 percent of the 83 million passengers carried by regional airlines in 2001.

In January 2002 there were approximately 95 regional airlines providing air transportation to more than 680 U.S. airports with scheduled airline service. It is important to note that almost 70 percent of these airports are located in small communities that depend exclusively on regional airlines for their access to the national transportation system.

Regional airlines are committed to providing safe and secure transportation for our passengers and crewmembers. The air carriers have worked with both the Federal Aviation Administration (FAA) and the Transportation Security Administration (TSA) to implement new regulatory requirements and enhance existing security procedures. RAA and its member airlines strongly support assumption of civil aviation security functions by TSA, in accordance with the Aviation and Transportation Security Act.

In preparing these comments, RAA reviewed comments filed on March 25, 2002 by the Air Transport Association (ATA). We fully support ATA's comments as the issues raised in their filing. Further, we strongly advocate that TSA adopt Section A. "Internal Costs" and Section B "External Costs" in ATA's proposed Appendix A, as it eliminates cost elements that are not related to screening.

### Compliance Period Should Be Extended

RAA also agrees with ATA that TSA should change the date for filing the data required for in Appendix A to allow air carriers at least 30 days following the issuance of a revised rule, in response to comments filed to the docket. Further, RAA urges TSA to modify the rule to ensure that all air carriers have received 100 percent of the amount due to them under the Air Transportation Safety and System Stabilization act prior to requiring that any payments be made. Many regional airlines are suffering significantly reduced revenue due to passengers avoiding short haul travel because of the time necessary to comply with enhanced security regulations. Further, these airlines are experiencing greatly increased expenses for war risk insurance, a cost not previously applicable to regional airlines, and additional security costs for which reimbursement is not provided by FAA or TSA.

### TSA Payments Should Be Adjusted if Air Carriers Not Compensated for Security Functions

Regional airlines operate at a large number of airports where their own employees have continued to perform the screening of passengers, baggage and cargo for the government pursuant to "Other Transaction Agreements" (OTA) with the FAA. However, FAA has indicated that it may not be able to fully compensate regional air carriers for amount due under those OTAs due to limited funds - despite the fact that screening contractors providing these same services will be fully paid. RAA expressed concern about the inequity of this situation in letters to FAA Chief Counsel David Leitch on February 7 and 13, stating "such a system will favor some air carriers over others at the same or competing airports, resulting in a competitive disadvantage." RAA therefore urges TSA to allow air carriers to reduce the funds paid to TSA by the amount outstanding from compensation under the OTA. Any other action could result in the reduction or even elimination of some air service, as regional air carriers would otherwise be paying twice for the screening of passengers and baggage at these airports.

### TSA Must Recognize the Unique Nature of Regional Airline Compensation Agreements

Code sharing, the relationship by which a regional carrier operates in partnership with a major airline, is a critical element in regional airline operations in the United States. In 2001, approximately 97 percent of regional airline passengers traveled on code-sharing airlines. There are three basic methods of compensation for regional airlines in code sharing partnerships: "pro-rate", under which the regional carrier is paid a portion of the fare paid by the passenger; "cost-plus", under which the regional carrier is paid for the costs of operating the flight plus an additional amount for profit; and "fee per departure", under which the regional carrier is paid a fixed amount per flight to cover the costs of operating the flight, regardless of the number of passengers. Some regional carriers are paid using a combination of these three methods. The result is that regional airlines paid varying amounts (or even nothing) directly for the screening of passengers and property during calendar year 2000 at some airports, as those costs were paid directly by the major partner. The contracts between the major airline and regional airlines do not enumerate the cost elements requested by TSA, as these costs are generally included in fees that include many non-screening functions such as ticketing and processing passengers. It would be difficult, if not impossible, to accurately determinate what

portion of those fees relate to screening of passenger and property. Further, an audit of such estimations would, likewise, be difficult (if not impossible). Therefore, TSA should not require that either regional carriers or major airlines estimate the security costs attributable to individual regional carrier operations, but should accept the data provided, recognizing that in many cases the costs for screening regional passengers and property were paid by the major airline.

#### TSA Should Revise the Remittance Schedule

Presuming that TSA delays the filing date for "Calendar Year 2000 Costs Paid for Passenger and Property Screening", RAA recommends that the payment schedule also be revised. Nevertheless, if TSA delays the first payment from May 31 to June 30, 28.272 percent of the total may then be due. Many regional airlines will have difficulty paying that amount to TSA, especially if the agency does not adopt RAA's request that payments be delayed until full federal compensation is received. RAA, therefore, proposes requests that carriers be allowed to remit 12.20166 percent of the costs for the first three months, followed by payments of 8.333 percent each month through September 2004.

#### TSA Should Eliminate Independent Audit Requirement

Regional airlines question the need for air carriers to "submit an audit performed by an independent certified public accountant" by July 2002. Independent audits are expensive and not required for verification of passenger facility payments or federal excise taxes and should be not required for these security payments. Under Section 1511.11 TSA has the ability to audit or review the books and records of airlines and should use that authority where they may have questions as to the veracity of the information submitted.

We appreciate your consideration of these comments. Please contact RAA if we can provide additional information.

Respectfully submitted,

Deborah C. McElroy  
President